

To: Whitcher, Elizabeth[Whitcher.Elizabeth@epa.gov]; DeMeo, Sharon M.[Demeo.Sharon@epa.gov]; Nelson, Eric[nelson.ericp@epa.gov]
From: Stein, Mark
Sent: Wed 6/18/2014 6:58:28 PM
Subject: FW: Request for Extension of Comment Period for Revised Draft Permit AND Adjustment to Scope of FOIA Request (No. EPA-R1-2014-004927)

Fyi....

Mark A. Stein

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From: linda.landis@nu.com [mailto:linda.landis@nu.com]
Sent: Friday, May 16, 2014 3:57 PM
To: Stein, Mark
Cc: Schena, Cristeen
Subject: Re: Request for Extension of Comment Period for Revised Draft Permit AND Adjustment to Scope of FOIA Request (No. EPA-R1-2014-004927)

Mark: Thank you for providing the summary below. You have correctly represented our discussion narrowing the scope of the FOIA request. Linda

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From: "Stein, Mark" <Stein.Mark@epa.gov>
To: Linda T. Landis/NUS@NU,
Cc: "Schena, Cristeen" <Schena.Cristeen@epa.gov>
Date: 05/16/2014 03:42 PM
Subject: Request for Extension of Comment Period for Revised Draft Permit AND Adjustment to Scope of FOIA Request (No. EPA-R1-2014-004927)

Hi Linda – Just a quick email on two separate issues.

First, as promised, I contacted the Permits Office here to let them know of PSNH's need for an expeditious response to its request for an extension of the comment period on the Revised Draft NPDES Permit for Merrimack Station, so that the company may plan the work of its staff and contractors on multiple assignments. Based on my discussion with the Permits Office, I believe that we will be responding to your request shortly (i.e., by sometime next week).

Second, I wanted to note your agreement to adjust the scope of your FOIA request (referenced above). It is my understanding that during our phone call you agreed to exclude from the scope of your request any records that are part of EPA's internal deliberative process and would be exempt from required disclosure under FOIA due to the applicability of the deliberative process privilege and/or the attorney-client privilege. EPA will still search its records to find and provide you with any non-exempt records that are responsive to the various items in your FOIA request. (As you noted on the phone, many non-exempt records related to the FGD wastewater permit conditions are likely already to be in the Administrative Record that Region 1 has made public. As a result of this agreement, Region 1 will not need to collect the Exempt Materials and provide an explanation of the applicable exemptions that would provide a basis for withholding those records. This is because such records will now be outside of the scope of the FOIA request. You explained that PSNH sent the FOIA request when it was uncertain what course Region 1 was going to take with regard to the FGD issues, but that now that Region 1 has issued the Revised Draft NPDES Permit, along with a newly augmented administrative record including many additional documents, the need for your broader FOIA request has diminished.

Region 1 appreciates your willingness to narrow the scope of your FOIA request at this time, as it will lessen the time our limited staff must devote to responding to it so that they can focus on other pre-existing assignments. We also understand that your agreement to narrow the scope of your FOIA request at this time in no way prejudices any rights that PSNH has to request this or other information in the future.

Sincerely,
Mark A. Stein

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